

MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – FEBRUARY 20, 2008 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD

1. CALL TO ORDER.

Mayor Calkins called the Meeting to order at 6:30 P.M. All Councilors were present.

Also present were Mr. Brian Colón, Town Attorney Representative, Mr. Jeff Condrey, Administrator Clerk-Treasurer, Ms. Karen Mahalick, Manager Community Planning & Development and Ms. Estefanie Muller, Deputy Clerk.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF THE AGENDA.

MOTION: Councilor Ring made a motion to move Item 15Lc to 8F. Councilor Felton seconded the motion for discussion.

Councilor Felton stated he had requested 10H and would like to see this item discussed before any action is taken on 15Lc. Councilor Ring stated he did not feel this would present a problem.

VOTE: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted nay. Councilor Simmons voted aye. The motion carried.

At this time Mayor Calkins introduced Mr. Brian Colón who is here to represent Mr. Marcus Rael, Town Attorney who could not make the meeting tonight.

MOTION: Councilor Felton made a motion to table item 8F, 11I, 13J, 13K with the absence of Mr. Rael. Councilor Ring seconded the motion.

Councilor Felton asked for verification from the public present on who was here for public comment and would there be discussion for the Public Hearings. Council agreed to have public comments concerning the Public Hearings.

VOTE: Councilor Simmons voted nay. Councilor Felton voted nay. Councilor Hill voted nay. Councilor Ring voted nay.

MOTION: Councilor Felton made a motion to table Item I, J, and K. Councilor Ring seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. The motion carried.

MOTION: Councilor Hill made a motion to accept the Agenda. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

4. PUBLIC COMMENTS. (Limit to 2 minutes per person).

Note: If you plan to testify later under Public Hearings, please do not sign-up for the same topic. Public Comments are for items not on this Agenda.

Mr. Don Holle stated he was present two weeks ago requesting the Council to reconsider the purchase of the land, as it was approved to continue negotiations on the purchase. He read a portion of the restrictive covenants and again asked the Council to reconsider this purchase. He addressed a letter from his Attorney to which the Council had not seen.

Ms. Janet Rolsma, President of the Los Cerritos Homeowners Association and stated they are here for support to the Vista Cerritos Association and stated there is a violation to the covenants and violation to the Town's rules and Ordinances. There is no direct access to Section 32. They are asking the Council to reconsider their options in the purchase of the property.

Ms. Sue West reminded the Council of the C.O.W. Awards on Friday night. Mr. Steve Stucker will be there.

Mr. Jim Smith and stated there are 16 seniors from East Mountain High School who have been trained to offer free tax help. Hours are Monday through Wednesday, 2:00 P. M. to 5:00 P.M. and Saturday from 9:00 A.M. to 12:00 noon. This information will be placed on the Town's web-site.

5. APPROVAL OF PREVIOUS MINUTES.

A. Regular Council Meeting of February 6, 2008.

MOTION: Councilor Simmons made a motion to approve the Minutes as submitted with a correction to item 7-F language in the motion clarified to state: Councilor Hill made a motion to adopt the Town of Edgewood Comprehensive Land Use Plan with deletion of the word "essential" from pages 60 and 78.... Councilor Felton seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. The motion carried.

6. APPROVAL OF CONSENT AGENDA.

Note: All matters under the Consent Agenda, are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

B. Planning & Zoning Commission Meeting Minutes of February 4, 2008.

C. Parks & Recreation Advisory Committee Report for the month of January, 2008.

D. Animal Control Report for the month of January, 2008.

MOTION: Councilor Ring made a motion to approve the Consent Agenda as presented. Councilor Simmons seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

7. MATTERS FROM THE MUNICIPAL JUDGE.

E. Judge White will present his report for the month of January, 2008.
Judge White was not present.

MOTION: Councilor Hill made a motion to table this item. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

8. PUBLIC HEARINGS.

Quasi Judicial Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Mahalick confirmed posting as required.

Note: This item is a continuation from the Council Meeting of December 19, 2007.

These cases are being heard under provisions required by the New Mexico Court of Appeals intended to protect the rights of all parties and their witnesses and the swearing in of all parties giving testimony. The affected parties will have the right to cross-examine persons giving testimony.

Confirmation of no conflict of interest or ex-parte communication.

Councilor Simmons stated she had no conflict of interest or ex-parte communication.

Councilor Felton stated he had no conflict of interest or ex-parte communication.

Councilor Hill stated he would recuse himself due to family relationship in this hearing.

Councilor Ring stated he had no conflict of interest or ex-parte communication.

F. Appeal of Pueblo Artesanos subdivision final plat phase one.

At this time Mr. Colón swore in all parties giving testimony for this hearing.

Ms. Peggy Conger reviewed her hand-out with the Mayor and Council and stated as directed by the Council they meet with the developers to which the developers responded they saw no possible benefit or change of outcome by having a meeting. The developers reconsidered and a meeting was scheduled. Exhibits of plat maps for 1995, 2004, and 2005 were referred to. Discussion on the easements and private access to the original northern four lots and the southern lots status was addressed and discussed by Council. A request was made that the Council decide that the Planning Commission's opinion regarding Rory Road was in error, and be remanded back to the Planning Commission.

Mr. Colón stated with Mr. Rael not present, he has been the Attorney involved and this be considered before any motions are made.

Ms. Kathy Russell reviewed the 2004 plat and cited a New Mexico State Statute and requested approval be denied of the Pueblo Artesanos plat. She stated the boundary line plat map would need to include tracts 3A through 3D, also acknowledgement of the

owners of these tracts and finally her private access would have to be condemned by the Town. She stated a response by February 27th be given from the Town to prevent action being filed against the Town.

Ms. Karen Kilgore stated her appreciation for not tabling this item tonight. A notebook of information with highlighted plats was presented to the Council at the meeting of December 2007. She presented plats and requested this be sent back to the Planning Commission for other options.

The Council discussed not having Mr. Rael present for response would not be prudent to make any final decisions without him present. By hearing testimony tonight they did not want to inconvenience those present and wanted to give them the opportunity to testify. Councilor Ring stated by postponing a decision, this could prevent the Town from being or going into a law suit. Councilor Simmons reviewed an easement of 1 ½ miles from Hwy 344 running across Horton Road and extends to Moonlight Meadow. The plat indicates access and utility easement and is 38 feet wide. She asked if any land touching this easement has access to it. Ms. Kilgore stated whether or not this is arguable, is when the lots were created, 3-ABC&D and the 2004 plat generated, the warranty deeds are referenced to the 2004 plat which states the easement is a private easement only. Councilor Simmons clarified the use of the easement by all owners and how this existed in the 1995 plat.

Mr. Colón stated Mr. Rael has responded to these issues and the letter before the Mayor and Council is dated with today's date with no time to review. He asked the Council and Mayor to consider tabling this action.

Mr. Jim Ulrich stated he is one of the principles of Pueblo Artesanos and stated the easement pre-existed any lots and was in place 9 years before any lots were created. The easement was put in place to access all the lots along the entire private road. The land was purchased with the easement. The land overlays the road, with the road being there first. Mr. Ulrich had sent a letter addressing the appeal letter. He stated the 2005 plat creating the second 4 lots, on the plat it stated a cul-de-sac was created on the end of those lots that would be vacated when Rory Road was completed.

MOTION: Councilor Simmons made a motion to table this item until the next Regular Meeting when Mr. Rael is present. Councilor Ring seconded the motion for discussion.

Councilor Felton asked for clarification on the February 27th deadline. Mr. Colón explained action on the 11th hour and forcing the Council into a decision without further investigation and the statute of limitations discussed varies.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Ring vote aye. The motion carried.

9. MATTERS FROM THE MAYOR.

G. Golden Apple Foundation of New Mexico Proclamation.

Initials

MOTION: Councilor Ring made a motion to approve the Proclamation. Councilor Simmons seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

10. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

H. Options for Access to Section 32 – Councilor Felton.

Councilor Felton stated he requested Staff to look at alternatives for access to Section 32. Mr. Raymond Dennis presented aerials and stated there is not an easy way to access this. This will be reviewed more and work with the property owners. Council discussed the State Land Office owning the land and the options that gives the Town.

11. MATTERS FROM THE ATTORNEY.

I. Discussion regarding progress on the Sign Ordinance revision.

This item was tabled.

12. Y.E.S. PROGRAM UPDATE – Ms. Karen Harrison.

Ms. Harrison was not present.

13. MEMORANDUM OF UNDERSTANDING – TOWN OF EDGEWOOD/WILDLIFE WEST.

J. Bluegrass Music Festival.

K. Annual Windfestival and Green Energy Fair.

This item was tabled.

14. REGIONAL ANIMAL CONTROL FACILITY UPDATE – Mr. Jonathan Craig.

Mr. Craig presented a power point on the facility the costs involved and progress to date.

15. MATTERS FROM THE ADMINISTRATOR.

L. FINANCE AND ADMINISTRATION.

a. Approval of Town Bills for the month of January, 2008.

MOTION: Councilor Felton made a motion to approve payment of the Town bills. Councilor Simmons voted aye.

VOTE: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. The motion carried.

b. Approval of the Financial Report for the month of January, 2008.

MOTION: Councilor Simmons made a motion to approve the Financial Report as submitted. Councilor Hill seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

c. Approval of Purchase Agreement of Tract D-5, Family Transfer Land Division Plat of Charles E. and Kathleen B. Smith. **(DISCUSSED ABOVE)**

M. COMMUNITY PLANNING & DEVELOPMENT.

- a. Call for Public Hearing - Amending Ordinance No. 1999-S, Creating the Planning Commission.

Ms. Mahalick stated she requesting removing the requirement in the Ordinance that states “During Public Hearing” appointments, re-appointments and vacancies can be filled by Mayoral appointment. She also requested language changes to Section 4. Organization, which will be forwarded before the Public Hearing for review.

MOTION: Councilor Ring made a motion to call for a Public Hearing. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

N. PUBLIC SAFETY.

Chief Welch updated on the progress of his department and is still waiting for the phone lines for the communication equipment. The ORI number has been received. He is looking for software to load the New Mexico State Statutes. He is working with Rich Ford on the installation of the lights and equipment for the police vehicles.

O. PUBLIC WORKS DEPARTMENT – Mr. Raymond Dennis

- a. Frost Road Reconstruction/Rehabilitation Project - Change Order No. One, NMDOT SP-5-07 (028) & NMDOT SP-5-08.

Mr. Dennis stated this request will reduce the contract in the amount of \$14,390.93 as this adjusts the original scope of work which includes reconstruction of 3,400 lineal feet of Frost Road.

MOTION: Councilor Hill made a motion to accept Change Order #1. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

- b. Frost Road Reconstruction/Rehabilitation Project – Change Order No. Two, NMDOT MAP 7549 (900) additional drainage and reconstruction.

Mr. Dennis stated Change Order No. Two is for addition work for reconstruction of Frost Road which \$1,333,333.33 accounts as the Town’s 25% match to the grant. The total amount is for 660 feet of paving plus 5 culverts totaling \$266, 912.69. At this time it is unsure if there is additional funding for this work. The Council discussed the RFP process and at what amount is acceptable for a change order or a new RFP is needed.

MOTION: Councilor Hill made a motion to approve Change Order No. 2. Councilor Felton seconded the motion.

VOTE: Councilor Ring voted nay. Councilor Hill voted nay. Councilor Felton voted nay. Councilor Simmons voted nay. The change order was not approved at this time.

16. RESOLUTIONS.

P. Resolution No. 2008-10 - Open Meetings.

Mr. Condrey stated there is a change to the posting locations.

MOTION: Councilor Hill made a motion to approve Resolution No. 2008-10.
Councilor Ring seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

Q. Resolution No. 2008-11 - Budget Resolution for Public Works Director.

MOTION: Councilor Felton made a motion to approve Resolution No. 2008-11.
Councilor Hill seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

R. Resolution No. 2008-12 – Requesting Municipal Arterial Program (MAP) Funds.

MOTION: Councilor Hill made a motion to approve Resolution No. 2008-12.
Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

S. Resolution No. 2008-13 – Amending the Subdivision Ordinance Review Fees.

MOTION: Councilor Hill made a motion to approve Resolution No. 2008-13.
Councilor Ring seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

17. ANNOUNCEMENTS, CALENDAR REVIEW & FUTURE AGENDA ITEMS.

T. Regular Council Meeting – March 5, 2008 at 6:30 P.M.

U. Regular Council Meeting – March 19, 2008 at 6:30 P.M.

MOTION: Councilor Simmons made a motion to schedule the meetings for March on the 12th and the regular scheduled meeting on the 19th. The Meeting of the 12th will include the Re-organizational Meeting. Councilor Felton seconded the motion.

MOTION: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. The motion carried.

18. CLOSED SESSION.

As per motion and role call vote, pursuant to N.M.S.A. 1978, 10-15-1(H)(8), the following matter will be discussed in Closed Session.

1. Property Acquisition.

MOTION: Councilor Hill made a motion to go into Closed Session pursuant to N.M.S.A., 1978 10-15-1(H)(8) to discuss property acquisition. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

MOTION: Councilor Hill made a motion to reconvene the Meeting. Councilor Felton seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. The motion carried.

Councilor Hill stated for the record only the item listed was discussed and no action was taken.

Councilor Ring confirmed the statement by Councilor Hill. Councilor Felton confirmed the statement by Councilor Hill. Councilor Simmons confirmed the statement by Councilor Hill.

19. ADJOURN.

MOTION: Councilor Simmons made a motion to adjourn the Meeting. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Ring voted aye. The motion carried.

Mayor Calkins adjourned the Meeting at 9:39 P.M.

Mayor's Quote for this Meeting:

Nothing is easy to the unwilling. Nikki Giovanni, Poet

APPROVED and ADOPTED this 12th day of MARCH, 2008.

Honorable Robert Stearley, Mayor

ATTEST:

Estefanie B. Muller, Acting Clerk-Treasurer